

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of Luis M. Correa

**FINDINGS OF FACT, CONCLUSIONS
AND RECOMMENDATION**

This matter came on for a hearing on an Order to Show Cause before Administrative Law Judge Eric L. Lipman on April 3, 2007, at the Minneapolis offices of the Office of Administrative Hearings.

Christopher M. Kaisershot, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota, 55101-2130, appeared on behalf of the Minnesota Department of Commerce (Department). There was no appearance by, or on behalf of, Luis M. Correa (Respondent). The hearing record closed on that same date.

STATEMENT OF THE ISSUES

1. Whether Respondent, by failing to complete certain required disclosures, was in violation of Minn. Stat. §§ 45.027, subd. 7(a)(2), 60K.43, subds. 1(2) and (9), and 60K.54, subd. 1 (2006)?
2. Whether the Respondent, by failing to respond to the Department's request for information, violated Minn. Stat. §§ 45.027, subds. 1a, 2 and 7(a)(2), and 60K.43, subd. 1(2) (2006)?
3. Whether it is appropriate to take disciplinary action against the non-resident insurance producer license held by the Respondent?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 13, 2007, a Notice of and Order for Hearing, Order to Show Cause, Order for Summary Suspension and Statement of Charges (Notice of and Order for Hearing) in this matter was mailed to the following address: 2400 North Wilbur, Apartment 119, Spokane, WA 99206.¹ The Notice of and

¹ See, Affidavit of L. Thayer (March 13, 2007); *compare also*, Exhibit A.

Order for Hearing indicated that a hearing on the Order to Show Cause would be held in this matter on April 3, 2007.²

2. The Notice and Order for Hearing in this matter includes the following statements:

Respondent's failure to appear at the prehearing conference, settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that Respondent may be subject to discipline by the Commissioner, including revocation, suspension, censure, or the imposition of civil penalties.

....

Under Minn. Stat. § 45.027, subd. 6 (2006), Respondent may be subject to a civil penalty not to exceed \$10,000 per violation upon a final determination that Respondent violated any law, rule or order related to the duties and responsibilities entrusted to the Commissioner.³

3. No one appeared at the April 3, 2007, hearing on behalf of Respondent. No prehearing request was made for a continuance, nor did anyone file a Notice of Appearance on behalf of Respondent.

4. The Notice and Order for Hearing alleges that:

- (a) On March 29, 2004, the Department issued Respondent a non-resident insurance producer's license, No. 20434662. Respondent's license is active until October 31, 2007.
- (b) On December 28, 2004, upon execution of a Consent Order, the State of Georgia issued Respondent a probationary license based on concerns for his criminal record. Respondent failed to notify the Department of this action and final disposition as required by law.
- (c) On September 7, 2005, upon execution of a Consent Order, the State of South Dakota suspended Respondent's license for 60 days based on his failure to report other states' actions and failure to respond. Respondent failed to notify

² Notice and Order for Hearing, at 2.

³ Notice and Order for Hearing, at 4, ¶ 1 and 4, ¶ 10.

the Department of this action and final disposition as required by law.

- (d) On May 15, 2006, the State of Indiana indefinitely suspended Respondent's license based on the actions taken by other states and his failure to submit a list of appointments. Respondent failed to notify the Department of this action and final disposition as required by law.
- (e) On May 16, 2006, pursuant to Minn. Stat. § 45.027, subds. 1a and 2 (2006), the Department sent Respondent an information request that sought an explanation for all administrative actions taken against him by other states. To date, Respondent has failed to provide any response.

5. The allegations contained in the Notice and Order for Hearing are deemed proven and are incorporated into these Findings by reference.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 45.027.

2. Respondent received due, proper and timely notice of the charges against him and of the time and place of the prehearing conference. This matter is, therefore, properly before the Commissioner and the Administrative Law Judge.

3. Respondent is in default as a result of his failure, without the ALJ's prior consent, to appear at the scheduled hearing in this matter.

4. Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. On default, the allegations of and the issues set forth in that Notice of and Order for Hearing and Prehearing Conference or other pleadings may be taken as true or deemed proved without further evidence.

5. Based upon the facts set out in the Notice of and Order for Hearing, Respondent, by failing to complete certain required disclosures, was in violation of Minn. Stat. §§ 45.027, subd. 7(a)(2), 60K.43, subds. 1(2), and 60K.54, subd. 1 (2006).

6. Based upon the facts set out in the Notice of and Order for Hearing, Respondent, by failing to respond to the Department's request for information,

violated Minn. Stat. §§ 45.027, subds. 1a, 2 and 7a(2), and 60K.43, subds. 1(1) and (2) (2006).

7. Minn. Stat. §§ 45.027 and 60K.43 empowers the Commissioner to take disciplinary action against the Respondent, for his violations of agency orders, state statute and state rules.

8. The imposition of a disciplinary action against Respondent is in the public interest.

Based upon these Conclusions, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

Based upon these Conclusions, the Administrative Law Judge recommends that disciplinary action be taken against Luis M. Correa.

Dated: April 10, 2007

s/Eric L. Lipman

ERIC L. LIPMAN
Administrative Law Judge

Reported: Taped, One tape
No transcript prepared

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Glenn Wilson, Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, to learn about the procedure for filing exceptions or presenting argument.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subdivision 2a. In such a case, the

Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.